

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 711**

Introduced by Erdman, 47

Read first time January 19, 2005

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to law enforcement; to amend section 16-1004,  
2 Reissue Revised Statutes of Nebraska; to provide a  
3 retirement benefit for law enforcement officers in cities  
4 of the first and second classes and villages; to  
5 harmonize provisions; and to repeal the original section.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. The governing body of a city of the first or  
2 second class or village maintaining a paid law enforcement  
3 department shall establish a pension fund. The pension fund shall  
4 consist of contributions made from law enforcement officers  
5 employed by the city or village and contributions made on behalf of  
6 those officers. Sections 1 to 8 of this act are supplemental to  
7 any other law on the same subject.

8           Sec. 2.     (1) The city or village shall contribute  
9 annually to each law enforcement officer's account an actuarially  
10 determined amount which combined with the law enforcement officer's  
11 contributions, or contributions made on the officer's behalf, will  
12 be sufficient to meet the normal costs of the account. The  
13 proceeds from the contribution shall be placed by the city or  
14 village in the officer's account within the law enforcement officer  
15 pension fund. In addition, in accordance with subsection (4) of  
16 this section, the employer may deduct from the salary of each  
17 officer an amount not to exceed eight percent of the monthly  
18 compensation payable to the officer and, if deducted, shall place  
19 it in the officer's account. In lieu of deducting such amount from  
20 the salary of each officer, the employer may, upon approval by the  
21 Public Employees Retirement Board, contribute a like amount into  
22 the account.

23           (2) Notwithstanding the provisions of subsection (1) of  
24 this section, the employer may deduct from the salary of each  
25 officer an amount specified by the board, which shall be  
26 actuarially determined. Each employer shall contribute an amount  
27 equal to the amount contributed by each officer, or by the city or  
28 village on behalf of the officer, under this subsection. All

1 contributions under this subsection shall be deposited in the  
2 officer's account.

3 (3) In addition to other contributions required under  
4 this section, the city or village and each officer shall contribute  
5 an equal amount to the account, specified by the board, which shall  
6 be actuarially determined, to meet the costs to the account for  
7 providing benefits.

8 (4) Annually, not later than November 1, based on an  
9 actuarial determination in writing, the board shall notify the  
10 employer in writing of the amount of contributions to deduct from  
11 the salary of each officer specified in subsection (1) of this  
12 section. Contributions shall be adjusted effective on the  
13 following July 1, and in accordance with the board's notice to the  
14 employer. The contributions shall remain in effect for the next  
15 succeeding calendar year. In no case shall contributions be less  
16 than eight percent in any year if the fund is not one hundred  
17 percent funded on an actuarial basis as certified to the board in  
18 writing by an actuary.

19 Sec. 3. (1) When any person duly appointed or selected  
20 and sworn as a member in any capacity or rank, other than  
21 department chief, of the law enforcement department of any city or  
22 village subject to the provisions of sections 1 to 8 of this act  
23 becomes sixty years of age, the Public Employees Retirement Board  
24 shall order that person retired from further service. When any  
25 member has served twenty years with the same law enforcement  
26 department, he or she may retire at that time, even if not sixty  
27 years of age. When the board issues an order of retirement, the  
28 order terminates the service of the person in the department,

1 except as provided in cases of emergency, and that person during  
2 his or her lifetime shall be paid a yearly pension equal to two and  
3 one-half percent of the average annual salary received during his  
4 or her highest paid five-year period, multiplied by the number of  
5 years of service. However, no pension may exceed seventy percent  
6 of the average salary for the five-year period.

7 (2) If for any reason the person leaves the department  
8 before completion of ten years of service, the person shall receive  
9 in one sum the amount without interest the person has paid into the  
10 pension fund. If the person leaves after the completion of ten  
11 years of service, the person has the option of drawing out the  
12 money paid in or leaving it until the person reaches the age of  
13 sixty years and then being eligible to retire under the provisions  
14 of this section.

15 Sec. 4. If any person, while serving as a law  
16 enforcement officer, is physically disabled as a result of any  
17 bodily injury received in the immediate or direct performance or  
18 discharge of the officer's duties, the Public Employees Retirement  
19 Board, upon written request filed with the board, or without the  
20 written request if it deems it to be for the benefit of the public,  
21 shall retire that person from the law enforcement department and  
22 order that the officer be paid from the fund during the officer's  
23 lifetime a monthly pension equal to sixty-two and one-half percent  
24 of the amount of the officer's regular monthly salary, effective at  
25 the time of retirement. If the officer's disability is off-duty  
26 related, the officer shall receive a monthly pension equal to fifty  
27 percent of the officer's monthly salary effective at the time of  
28 retirement. If the disability ceases the pension shall cease and

1 the person shall be restored to active service at the existing  
2 salary of the officer's position or rank at the time of  
3 reinstatement.

4           Sec. 5. (1) Upon the death, from any cause, of any  
5 person appointed or selected and sworn as a law enforcement officer  
6 in any capacity or rank of the law enforcement department of any  
7 city or village subject to the provisions of sections 1 to 8 of  
8 this act, the Public Employees Retirement Board shall pay a monthly  
9 pension of fifty percent of the deceased officer's monthly salary  
10 to the officer's surviving spouse. The pension shall continue for  
11 life or until the surviving spouse remarries. In addition, the  
12 board shall pay to the surviving spouse six percent of the deceased  
13 officer's monthly salary per month for the support and maintenance  
14 of each child of the deceased officer who is under eighteen years  
15 of age and was supported by the officer prior to the officer's  
16 death. The payments shall continue until the child reaches the age  
17 of majority or marries.

18           (2) If the officer is retired and drawing pension at the  
19 time of death and leaves a surviving spouse, the board shall pay a  
20 monthly pension to the officer's surviving spouse equal to  
21 two-thirds of the pension the retired officer was receiving at the  
22 time of death. In addition, the board shall pay to the surviving  
23 spouse or legal guardian sixty dollars per month for the support  
24 and maintenance of each child of the deceased, retired officer who  
25 is under eighteen years of age and was supported by the officer  
26 prior to the officer's death. The payments shall continue until  
27 the child reaches the age of majority or marries.

28           Sec. 6. Any person retired for disability may be

1 summoned by written notice to appear before the pension board at  
2 any time thereafter for examination as to fitness for duty and  
3 shall abide by the decision and order of the Public Employees  
4 Retirement Board with reference thereto.

5           Sec. 7. If any law enforcement officer or his or her  
6 surviving spouse or dependent children are entitled to any pension  
7 or benefits under sections 1 to 8 of this act, the officer, or in  
8 the event of the officer's death, the surviving spouse or  
9 dependent, shall apply for the pension or benefits by filing a  
10 complete and concise statement of facts necessary to entitle the  
11 applicant to the pension or benefits. The application shall be  
12 filed with the Public Employees Retirement Board upon forms it  
13 provides. The board may investigate each application and determine  
14 whether the pension or benefits should be granted. The board may  
15 also hear evidence as to the justice of the application or require  
16 and receive affidavits as to the truth of the statements made  
17 therein. If the application is denied, the matter may be reviewed  
18 by the district court of the county in which the applicant resides.

19           Sec. 8. (1) Application for pension under sections 1 to  
20 8 of this act may be made prior to actual retirement upon statement  
21 of the intention to retire, but payment shall not begin until the  
22 applicant has actually retired and the applicant's name is stricken  
23 from the payrolls of the city or village. Payments shall be made  
24 to the pensioner or the pensioner's beneficiaries on or before the  
25 fifth day of each month from the law enforcement officer pension  
26 fund.

27           (2) The cash and securities while in the account created  
28 by sections 1 to 8 of this act are exempt from any state, county,

1 or municipal tax of this state, are not subject to execution or  
2 attachment by trustee process or otherwise, in law or equity, or  
3 under any other process whatsoever, and are not assignable.

4           Sec. 9.   Section 16-1004, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           16-1004.   (1) Commencing on January 1, 1984, unless a  
7 pension fund is established under sections 1 to 8 of this act, each  
8 city of the first class shall keep and maintain a Police Officers  
9 Retirement System Fund for the purpose of investing payroll  
10 deductions and city contributions to the retirement system. The  
11 fund shall be maintained separate and apart from all city money and  
12 funds. The fund shall be administered under the direction of the  
13 city and the retirement committee exclusively for the purposes of  
14 the retirement system and for the benefit of participating police  
15 officers and their beneficiaries. The fund shall be established as  
16 a trust under the laws of this state for all purposes of section  
17 401(a) of the Internal Revenue Code. Upon the passage of sections  
18 16-1001 to 16-1019 all of the contributions made by a police  
19 officer prior to January 1, 1984, will be transferred to the police  
20 officer's employee account without interest unless the city, at the  
21 time of the transfer, credited interest on such contributions.  
22 Regular interest shall begin to accrue on the contributions  
23 transferred into the fund from January 1, 1984. Such funds shall  
24 be invested in the manner prescribed in section 16-1016.

25           (2) The city shall establish a medium for funding of the  
26 retirement system, which may be a pension trust fund, custodial  
27 account, group annuity contract, or combination thereof, for the  
28 purpose of investing money for the retirement system in the manner

1 prescribed by section 16-1016 and to provide the retirement, death,  
2 and disability benefits for police officers pursuant to sections  
3 16-1001 to 16-1019. The trustee or custodian of any trust fund may  
4 be a designated funding agent which is qualified to act as a  
5 fiduciary or custodian in this state, the city treasurer, a city  
6 officer authorized to administer funds of the city, or a  
7 combination thereof.

8           (3) Upon direction of the city, there may be established  
9 separate investment accounts for each participating police officer  
10 for the purpose of allowing each police officer to direct the  
11 investment of all or a portion of his or her employee account or  
12 employer account subject to the requirements of section 16-1016 and  
13 any other rules or limitations that may be established by the city  
14 or the retirement committee. If separate investment accounts are  
15 established, each account shall be separately invested and  
16 reinvested, separately credited with all earnings and gains with  
17 respect to the investment of the assets of the investment account,  
18 and separately debited with the losses of the account. Each  
19 investment account shall be adjusted each year to reflect the  
20 appreciation or depreciation of the fair market value of the assets  
21 held in such account as determined by the retirement committee.  
22 The expenses incurred by the retirement system when a police  
23 officer directs the investment of all or a portion of his or her  
24 individual investment account shall be charged against the police  
25 officer's investment account and shall reduce the police officer's  
26 retirement value.

27           Sec. 10. Original section 16-1004, Reissue Revised  
28 Statutes of Nebraska, is repealed.